

OA 91 Criminal Complaint

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

V.

ERNESTO ALBERTO GONZALEZ

CRIMINAL COMPLAINT

FILED

Case Number: **3 07 70431 JL**

JUL 19 2007

(Name and Address of Defendant)

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about July 18, 2007 in San Mateo County, in the Northern District of California defendant(s) did,

(Track Statutory Language of Offense)

being an alien and having previously been deported from the United States, was found in the United States without the required permission of either the Attorney General or the Secretary of the Department of Homeland Security.

in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a(n) ICE-Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

Maximum Penalties: Imprisonment for not more than twenty (20) years, a fine of not more than two hundred fifty thousand (\$250,000.00) dollars, a one-hundred (\$100.00) special assessment, and three (3) years supervised release.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved
As To
Form:

AUSA

Allison Danner

Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

July 19, 2007

at

San Francisco

California

City and State

Nandor J. Vadas

United States Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Cesar Lopez, being duly sworn, do hereby state:

Introduction

1. My name is Cesar Lopez, and I submit this affidavit in support of a criminal complaint against Ernesto ALBERTO GONZALEZ for violating Title 8, United States Code, Section 1326.

Statutory Background

2. The elements of a violation of Title 8, United States Code, Section 1326 (Deported Alien Found in the United States) are:

- a. The Defendant is an alien;
- b. Who has been previously deported;
- c. Voluntarily returned to or remained in the United States;
- d. Was found in the United States;
- e. Without permission of the Attorney General or the Secretary for Homeland Security.

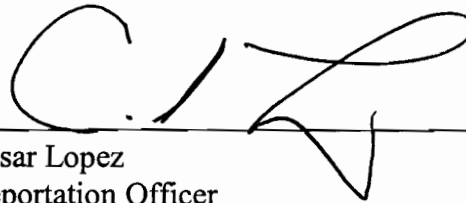
Agent Background

3. I am a Deportation Officer with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). I have been employed in this capacity since July 24, 1994.

Statement of Probable Cause

4. I have reviewed the official Alien Registration File (A72 988 011) and the automated criminal records (CII: CA09777586 and FBI: 903123PA5) relating to Ernesto ALBERTO GONZALEZ, which attest to the following:
 - a. Ernesto ALBERTO GONZALEZ ("ALBERTO GONZALEZ") is a thirty-six (36) year-old male, native and citizen of Mexico.
 - b. ALBERTO GONZALEZ's official Alien Registration File (A72 988 011) contains an executed Warrant of Deportation indicating that Ernesto ALBERTO GONZALEZ was deported from the United States to Mexico through San Ysidro, California on April 12, 1995, May 25, 2000 and May 11, 2004. In addition, Ernesto ALBERTO GONZALEZ was deported from the United States to Mexico through Otay Mesa, Arizona on December 31, 1992, through Nogales, Arizona, on September 6, 2000 and through Calexico, California on January 29, 2003.
5. On July 18, 2007, ALBERTO GONZALEZ came to the attention of an Immigration and Customs Enforcement Agent pursuant to his incarceration at San Mateo County Jail. Subsequently, an immigration detainer was lodged.
6. On July 19, 2007, a full set of rolled fingerprints belonging to ALBERTO GONZALEZ was submitted to the Automated Fingerprint Identification Center ("AFIS") for verification of identity. The fingerprint examiner positively identified the fingerprints as belonging to the same Ernesto ALBERTO GONZALEZ who has previously been removed from the United States as referenced above.

7. There is no indication in the official files of the United States Department of Homeland Security that Ernesto ALBERTO GONZALEZ ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.
8. Based upon the facts described above, I believe that there is probable cause that the defendant, Ernesto ALBERTO GONZALEZ, having previously been deported from the United States, has been found in the United States without the required permission, in violation of Title 8, United States Code, Section 1326.



Cesar Lopez
Deportation Officer
U.S. Department of Homeland Security
Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 19th day of July 2007 at San Francisco, California.



Nandor J. Vadas
United States Magistrate Judge
Northern District of California
San Francisco, California